IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.9.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.844 of 2007

Prabhakaran .. Petitioner

Vs

1. The State of Tamil Nadu,
   Rep. by its Secretary to Govt.,
   Prohibition and Excise Department
   Fort St. George, Chennai-9.

2. The Commissioner of Police,
   Coimbatore City
   Coimbatore .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus calling for the entire records pertaining to the detention order passed against him by the 2nd respondent herein in C.No.35/G./IS/2007 dated 25.4.2007 and quash the same and direct the respondents herein to produce the body or person of the petitioner this Hon'ble Court and set him at liberty from Central Prison, Coimbatore.

For Petitioner : Mr.P.M.Duraiswamy
For Respondents : Mr.P.Kumaresan
Additional Public Prosecutor

WEB COPY

---

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, who has been incarcerated by order of detention dated 25.4.2007 of the second respondent in proceedings No.C.No:35/G/IS/2007 passed under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,

https://hcservices.ecourts.gov.in/hcservices/

Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Goonda, has preferred this writ petition for issue of a Writ of Habeas Corpus to call for the records relating to the detention order, to set aside the same and to direct the respondents to produce him before this Court and set at liberty.

2. On the basis of the complaint given by one Devaraj, a case was registered in Crime No.319 of 2007 on the file of B-2 R.S. Puram Police Station for the offence punishable under Section 392 read with 397 I.P.C. against one Prabhakaran, the detenu herein. According to the complainant, who was running a Pani Poori stall at the junction of Mettupalayam Road and Archana Dharsana Theatre Road, on 23.3.2007 at 21.45 hours, while he was doing business, the detenu came and demanded Rs.200/- from him and when the complainant questioned, the detenu suddenly snatched Rs.200/- from his shirt pocket. When the complainant protested, the detenu took out a knife from his waist and threatened to kill him. When two friends of the complainant tried to catch the detenu, he brandished the knife and threatened them. On seeing this atrocious activity, people ran helter shelter resulting in dislocation of traffic.

3. The detaining authority, treating the above case as ground case and finding that there are five adverse cases, out of which, three cases registered under Section 379 IPC, one case under Sections 294(b) and 506(ii) IPC and another under Section 75(i) & 323 IPC and having satisfied that there is a compelling necessity to detain the said Prabhakaran in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered his detention dubbing him as a Goonda.

4. According to the learned counsel for the petitioner the detention order is to be set aside on the ground of incorrect facts, since the order of detention is dated 25.4.2007, whereas the grounds of detention is dated 28.4.2007.

5. We find some substance in the contention of the learned counsel. We are unable to appreciate that when the grounds of detention itself is dated 28.4.2007, how could the detaining authority have passed the detention order on 25.4.2007, which is an

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

error apparent on the face of record. Hence, on this ground, the order of detention dated 25.4.2007 is liable to be set aside and accordingly, it is set aside. The habeas corpus petition is allowed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ATR

To:

1. The Secretary to Government
   Prohibition and Excise Department
   Fort St. George, Chennai-9.

2. The Commissioner of Police,
   Coimbatore City.

3. The Superintendent
   Central Prison, Coimbatore.
(In duplicate for Communication to detenue)

4.The Joint Secretary to Government Public (Law and Order)
Fort St.George, Chennai -9.

5. The Public Prosecutor,
   High Court, Madras.

+1cc to M/s. P.M.Duraisamy, Advocate Sr 59391

WEB COPY

AD(CO)
km/3.10.

H.C.P.No.844 of 2007

https://hcservices.ecourts.gov.in/hcservices/